PREFACE. Policing Ideological Threats, Then and Now

In *Thought Crime*, I analyze the transformations of an interwar Japanese antiradical law called the Peace Preservation Law (Chianijihō), from its initial passage to suppress communism and anticolonial nationalism in 1925, to its expansion in the 1930s into an elaborate system to "ideologically convert" (*tenkō*) and rehabilitate thousands of political criminals throughout the Japanese Empire, to how the law's rehabilitation policies provided a model for mobilizing the populations of the Japanese Empire for total war in the 1940s. I am particularly interested in how the law provides a well-documented example of how a modern state deployed a combination of repression and rehabilitation when policing political threats (real or imagined), as well as how such efforts reveal the underlying ideology particular to the prewar Japanese imperial state. My interest in the Peace Preservation Law is therefore twofold. First, I want to intervene in the defining historical debates over the nature of the prewar imperial state and the consolidation of fascism in Japan during the interwar period. Second, I utilize the particular history of the Peace Preservation Law in order to consider the various modes of power that states, not just the interwar Japanese state, use to police political threats, thus reproducing and redefining their respective national polities in the process.

This latter aspect of my project became particularly clear to me as I was finishing this book while on sabbatical in Tokyo in 2015–2016. I would often take breaks from reading arcane interwar Japanese Justice Ministry reports by catching up on the latest international news. One particular news story caught my attention: the arrest of young Somali American men in Minneapolis, Minnesota, for allegedly trying to join ISIL in Syria.[1] Within the context of the United States' perpetual state of exception called the war on terror, I was not necessarily surprised by these arrests.[2] However, what was especially intriguing was how the Minneapolis case was being framed by a discourse of the radicalization of ideologies from abroad, and how the district court in Minneapolis was considering ways to assess the defendants' degree of

radicalization.[3] These aspects resonated with what I was reading in Japanese documents from the 1920s and 1930s, when justice officials described domestic radical politics as the result of dangerous "foreign ideas" (*gairai shisō*) "infiltrating" (*sennyū*) the Japanese Empire and infecting it from within. These foreign ideas, it was said, turned imperial Japanese subjects into internal agents of a foreign enemy (here, the Soviet Union). Explained in this way, communism, anticolonial nationalism, and other ideologies were defined as "thought crime" (*shisō hanzai*), and by the 1930s, the Japanese state had established an extensive security apparatus to identify, assess, and ultimately rehabilitate thousands of so-called thought criminals (*shisō hannin*).

Today, this logic of external ideas producing internal enemies can be found in the discourse of homegrown terrorism, wherein foreign jihadist ideology ostensibly radicalizes citizens or recent immigrants in Europe and the United States so that they carry out the objectives of foreign enemies. Of course, the sociohistorical contexts and politico-ideological content of these two cases are extremely different. However, I was struck by the discursive similarities in how the two states defined their respective threats as, essentially, external ideas that were/are infecting their respective national polities, and how such a notion allowed the two states to generate fear and mobilize their populations. In particular, I became interested in the way such a definition authorized both states to diffuse their policing powers into communities, bringing together police, courts, prison officials, families, religious institutions, educators, and employers to assist with reforming those believed to have been led astray by dangerous foreign ideas. Indeed, at the time of this writing, many Japanese legal scholars are expressing strong criticism of the legal reinterpretations being carried out by the cabinet of prime minister Abe Shinzō in the name of the war on terror and national defense, pointing to similarities with prewar legal developments, and the Peace Preservation Law in particular. [4]

In both cases, state officials envisioned systems that, with collaboration from the local community, would monitor, assess, and rehabilitate those believed to be harboring dangerous ideas. In Japan, this system was actualized in a network of so-called Thought Criminal Protection and Supervision Centers (Shisōhan hogo kansatsu sho) in 1936. Although much more cursory and experimental than the prewar Japanese example, the Minneapolis District Court created a Terrorism Disengagement and Deradicalization Program in March 2016.[5] The first step in this new program was to assess the degree of a defendant's radicalization upon arrest so as to determine a sentence appropriate to the level of danger the defendant ostensibly posed. For example, a

Minneapolis district judge, Michael Davis, hired Daniel Koehler of the German Institute on Radicalization and Deradicalization Studies (GIRDS) to evaluate the degree of radicalization of four out of the nine defendants before they were sentenced.[6] The Minneapolis *Star Tribune* summarized Koehler's charge as to "identify the factors that drove the radicalization of the defendants, identify their risk of reoffending and specify strategies to steer them away from radical ideologies."[7] As we will see in *Thought Crime*, Koehler's charge echoes interwar Japanese Justice Ministry materials that instructed court procurators (*kenji*) to assess the danger posed by so-called thought criminals before their formal indictment or sentencing. Similar to Koehler, Japanese procurators produced official reports (*jōshinsho*) on each thought criminal, assessing the degree of a defendant's commitment to communist internationalism or anticolonial nationalism, and their potential to be rehabilitated through a multistage program of ideological conversion (*tenkō*). In both cases, ideas became the target of inquiry. For example, Koehler explained that his evaluations would assess "if these thoughts and ideas [i.e., jihad] actually determined this behavior and . . . led them to the point where they did something illegal."[8] The Minneapolis defendants had already been found guilty of conspiring to join ISIL. Thus Koehler's task was to interrogate the ideas motivating the defendants' actions in order to assess their reformability for sentencing.[9] Ultimately, Minnesota chief US probation officer Kevin Lowry summarized the objective of this program in this way, using rhetoric that could have come from the interwar Japanese example: "If a radicalized defendant or offender is not properly treated, they will continue to infect our communities . . . and they'll look to harm the community and martyr themselves if [they're not treated] with a balance between rehabilitation and public safety."[10] Here the radicalized defendants in Minneapolis embodied the danger of dangerous ideas spreading in their communities, and thus we can imagine that authorities would extend their balance between "rehabilitation and public safety" beyond pretrial interventions into postparole reform programs and preemptive monitoring to locate others who might be susceptible to becoming, in Lowry's terminology, "infected" by such ideas.

The Japanese interwar state similarly policed suspects by identifying the ideas that determined a communist's motives for joining the illegal Japanese Communist Party (JCP). In prewar Japan, conventional violence such as riot or lèse-majesté were already criminalized under the Civil Code or earlier antiradical laws such as the 1900 Public Peace Police Law (Chian keisatsu hō), which set strict parameters for political expression, publication, assembly, and activities. The 1925 Peace Preservation Law, in contrast, defined a

criminal infringement as forming or joining an organization with the objective to "alter the national polity" (*kokutai o henkaku*) or "reject the private property system" (*shiyūzaisan seido o hinin*). In both the Japanese and US examples, the criminal act was primarily attempting to join an organization, and the burden for procurators and judges was to determine a defendant's commitment to the ideas that motivated him or her to allegedly join or support such groups. As one prominent justice official explained in regard to the Japanese Peace Preservation Law: "The peculiarity of this law is that it makes acts based on certain practical thoughts the object of punishment. The thoughts in thought crimes are not . . . theoretical, abstract thoughts, but practical, concrete thoughts."[11] Furthermore, in both cases, these pre-sentencing ideological assessments would decide if defendants received a prison sentence or were paroled into programs where they could be, in today's parlance, deradicalized.

Koehler told reporters that his risk assessments would anticipate what to do with the Minneapolis defendants "when they get out [of prison]" after serving their sentences.[12] This latter concern also dominated the discussions at Japanese Justice Ministry conferences in the mid-1930s, as Japanese officials worried that many incarcerated communists would soon complete prison sentences they were given in the late 1920s or early 1930s. These concerns over ideological recidivism (*saihan*) led Japanese officials in 1936 to establish the system of Thought Criminal Protection and Supervision Centers mentioned earlier, which coordinated between prisons, prosecutors, community leaders, employers, family members, and others to assist thought criminals to secure their ideological conversions while they transitioned back to society. Indeed, early in the Minneapolis investigations, the district court considered probation programs to deal with apprehended terror suspects who showed potential for reform.[13] In one case, a young man was temporarily released to a halfway house before his trial started.[14] There he received support from a nonprofit community organization which, as the *Star Tribune* reported, connected him with "a team of religious scholars, teachers and other mentors" in order to assess his potential for deradicalization and resocialization.[15]

In the end, however, District Judge Davis did not expand upon this rehabilitation experiment. Rather, citing the difficulty of balancing a defendant's rehabilitation with public safety, Davis ultimately emphasized public safety.[16] He sentenced the nine suspects to a range of jail terms—the harshest being thirty-five years in jail, with two others receiving thirty-year prison sentences. Only the young man temporarily released to a halfway house mentioned above was granted time served for turning state's witness, and given twenty years of supervised release.[17]

Many people involved in counterterrorism in the United States were watching the Minneapolis case closely.[18] The Department of Homeland Security under the Obama administration had created a counterterrorism program two years earlier in 2014 called the Countering Violent Extremism (CVE) program, with pilot programs targeting primarily Muslim and immigrant communities in Boston, Minneapolis, and Los Angeles.[19] The CVE program was designed to collaborate with community groups, families, and schools to identify individuals at risk for becoming terrorists, and would provide community and religious services to counter the appeal of radical ideologies. Almost immediately, the CVE program was critiqued for stigmatizing Muslim communities, as well as for attempting to turn educators and religious leaders into informants for the state.[20] Similar criticisms were directed at the Minneapolis Terrorism Disengagement and Deradicalization Program.[21] Despite these criticisms, the Minneapolis program was the first of its kind to so closely assess the beliefs of defendants and to consider methods for deradicalization. Officials were thus watching the Minneapolis case for aspects that could be incorporated into the national CVE program.

Following Donald Trump's election in November 2016 and his promise to take a hard line with suspected terrorists, it is doubtful that these kinds of soft approaches to preventing terrorism will be expanded in the US.[22] Indeed, in July 2017 the Department of Homeland Security informed various community organizations working to rehabilitate radicals—both alleged jihadists and white supremacists—that they would no longer receive funding from the department.[23] However, before we celebrate the Obama administration's approach as a lighter, more community-oriented way to counter radicalization, we should recognize that, in addition to the community criticisms of the CVE program mentioned earlier, the Obama administration escalated targeted drone strikes in Yemen and elsewhere, often killing civilians and radicalized American jihadists without the due process guaranteed under the Fourteenth Amendment of the US Constitution.[24] Furthermore, the Obama administration failed to fulfill a campaign promise to close the Guantánamo Bay detention camp, one of the most notorious examples of the US's deployment of extrajudicial repression in its war on terror. Indeed, the Trump administration has broken with convention and is, at the time of this writing, trying individuals in civilian court who have allegedly committed or planning acts of terror, rather than designating them enemy combatants and sending them to Guantánamo Bay.[25] In many cases, the Trump administration is enacting policies that go explicitly against his earlier campaign rhetoric of getting tough with terrorists. Ultimately, we should recognize that

the discourse of radicalization legitimated, and continues to legitimate, both repression and rehabilitation, even as the balance between these two shifts between administrations and their rhetoric on how to adequately deal with so-called homegrown terrorists.

To be clear, the question that I pursue in *Thought Crime* is not whether repression or rehabilitation is the more effective approach to combat domestic radicals. Rather, I am interested in how, at particular historical conjunctures, states define political threats as essentially ideological and foreign in nature, and how such definitions provide the conditions for states to experiment with different combinations of repression and rehabilitation. Ultimately, I am interested in what kinds of policing methods such a definition informs, and how communities are brought within campaigns to ostensibly eradicate ideological influences. Furthermore, I believe such experiments reveal more about the underlying ideologies informing the varying modes of power that a state deploys than they do about the purported threats they are meant to combat, whether we are discussing the prewar Japanese imperial state's interwar thought crime policy or the United States' war on terror.[26]

Thus, as I was completing this book in Tokyo in 2015–2016, I found myself conducting a kind of parallax analysis, simultaneously reading historical documents related to the prewar Japanese thought crime system and contemporary news reports on the United States' CVE experiments with deradicalization. I hope that *Thought Crime*, in addition to contributing to the historical literature on interwar Japan, can also provide a historical vantage point from which we can consider our own contemporary moment, and what the current discourse of radicalization might reveal about the ideology underwriting the endless war on terror.